



February 20, 2009

## HOUSE BILL No. 1208

DIGEST OF HB 1208 (Updated February 18, 2009 3:43 pm - DI 113)

**Citations Affected:** IC 11-10; IC 11-12; IC 12-7; IC 12-15; IC 12-21; IC 31-9; IC 31-32; noncode.

**Synopsis:** Health, mental health, and addiction matters. Establishes the mental health corrections quality advisory committee. Requires DOC to adopt standards for the use of mental health drugs for county jails that are the same as the standards used by DOC. Creates the mental health Medicaid quality advisory committee as a permanent committee to advise the drug utilization review board. (The Medicaid quality advisory committee is a temporary committee that expires July 1, 2009.) Provides for the closing of a juvenile proceeding for the testimony of health care providers and certain other providers. Creates a multiagency task force on workforce development issues relating to individuals with mental health and addictions issues. (The introduced version of this bill was prepared by the commission on mental health.)

**Effective:** July 1, 2009.

**Brown C**

January 12, 2009, read first time and referred to Committee on Public Health.  
February 10, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.  
February 19, 2009, reported — Do Pass.

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HB 1208—LS 6527/DI 14+



February 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1208

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 11-10-4-6.6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2009]: Sec. 6.6. (a) As used in this section, "advisory committee"  
4 refers to the mental health corrections quality advisory committee  
5 established by subsection (b).

6 (b) The mental health corrections quality advisory committee is  
7 established. The advisory committee consists of the following  
8 members:

9 (1) The commissioner of the department or the commissioner's  
10 designee, who shall serve as chairperson of the advisory  
11 committee.

12 (2) The director of the division of mental health and addiction or  
13 the director's designee.

14 (3) A representative of a statewide mental health advocacy  
15 organization.

16 (4) A representative of a statewide mental health provider  
17 organization.

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(5) A representative from a medical services organization that participates in the department's medical services program.

(6) A member with expertise in psychiatric research representing a postsecondary educational institution.

(7) A pharmacist licensed under IC 25-26 with expertise in mental health disorders.

The governor shall make the appointments under subdivisions (3) through (7) for a term of four (4) years and fill any vacancy on the advisory committee.

(c) The affirmative votes of a majority of the voting members appointed to the advisory committee are required for the committee to take action on any measure.

(d) The advisory committee shall advise the department and make recommendations concerning the department's formulary for medications for mental health and addictive disorders and consider the following:

(1) Peer reviewed medical literature.

(2) Observational studies.

(3) Health economic studies.

(4) Input from physicians and patients.

(5) Any other information determined by the advisory committee to be appropriate.

(e) The department shall report recommendations made by the advisory committee to the department's medical director.

(f) The department shall report the following information to the Indiana commission on mental health (IC 12-21-6.5-2):

(1) The advisory committee's advice and recommendations made under this section.

(2) The number and types of restrictions implemented by the department and the outcome of each restriction.

(3) The transition of individuals with mental illness into the community and the rate of recidivism.

(4) Any decision by the department to change the mental health care delivery system in which medication is provided to inmates.

SECTION 2. IC 11-12-4-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) The department shall adopt rules under IC 4-22-2 for county jails to govern the use of drugs for controlling a mental or an emotional disorder prescribed for a confined person.**

**(b) The provisions governing the prescription of drugs for controlling a mental or an emotional disorder by the department**

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under IC 11-10-4-6 shall be applied to the use of prescription drugs for controlling a mental or an emotional disorder for a confined person in a county jail.

SECTION 3. IC 12-7-2-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. "Advisory committee", for purposes of IC 12-15-35-51, has the meaning set forth in IC 12-15-35-51(a).

SECTION 4. IC 12-15-35-51 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 51. (a) As used in this section, "advisory committee" refers to the mental health Medicaid quality advisory committee established by subsection (b).

(b) The mental health Medicaid quality advisory committee is established. The advisory committee consists of the following members:

- (1) The director of the office or the director's designee, who shall serve as chairperson of the advisory committee.
- (2) The director of the division of mental health and addiction or the director's designee.
- (3) A representative of a statewide mental health advocacy organization.
- (4) A representative of a statewide mental health provider organization.
- (5) A representative from a managed care organization that participates in the state's Medicaid program.
- (6) A member with expertise in psychiatric research representing an academic institution.
- (7) A pharmacist licensed under IC 25-26.

The governor shall make the appointments for a term of four (4) years under subdivisions (3) through (7) and fill any vacancy on the advisory committee.

(c) The office shall staff the advisory committee. The expenses of the advisory committee shall be paid by the office.

(d) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) Each member of the advisory committee who is a state

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employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) The affirmative votes of a majority of the voting members appointed to the advisory committee are required by the advisory committee to take action on any measure.

(g) The advisory committee shall advise the office and make recommendations concerning the implementation of IC 12-15-35.5-7(c) and consider the following:

- (1) Peer reviewed medical literature.
- (2) Observational studies.
- (3) Health economic studies.
- (4) Input from physicians and patients.
- (5) Any other information determined by the advisory committee to be appropriate.

(h) The office shall report recommendations made by the advisory committee to the drug utilization review board established by section 19 of this chapter.

(i) The office shall report the following information to the select joint commission on Medicaid oversight established by IC 2-5-26-3:

- (1) The advisory committee's advice and recommendations made under this section.
- (2) The number of restrictions implemented under IC 12-15-35.5-7(c) and the outcome of each restriction.
- (3) The transition of individuals who are aged, blind, or disabled to the risk based managed care program. This information shall also be reported to the health finance commission established by IC 2-5-23-3.
- (4) Any decision by the office to change the health care delivery system in which Medicaid is provided to recipients.

(j) Notwithstanding subsection (b), the initial members appointed to the advisory committee under this section are appointed for the following terms:

- (1) Individuals appointed under subsection (b)(3) and (b)(4) are appointed for a term of four (4) years.
- (2) An individual appointed under subsection (b)(5) is appointed for a term of three (3) years.
- (3) An individual appointed under subsection (b)(6) is appointed for a term of two (2) years.
- (4) An individual appointed under subsection (b)(7) is

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1 **appointed for a term of one (1) year.**

2 **This subsection expires December 31, 2013.**

3 SECTION 5. IC 12-15-35.5-7, AS AMENDED BY P.L.8-2007,  
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2009]: Sec. 7. (a) Subject to subsections (b) and (c), the office  
6 may place limits on quantities dispensed or the frequency of refills for  
7 any covered drug for the purpose of:

- 8 (1) preventing fraud, abuse, or waste;
- 9 (2) preventing overutilization, inappropriate utilization, or  
10 inappropriate prescription practices that are contrary to:  
11 (A) clinical quality and patient safety; and  
12 (B) accepted clinical practice for the diagnosis and treatment  
13 of mental illness; or
- 14 (3) implementing a disease management program.

15 (b) Before implementing a limit described in subsection (a), the  
16 office shall:

- 17 (1) consider quality of care and the best interests of Medicaid  
18 recipients;
- 19 (2) seek the advice of the drug utilization review board,  
20 established by IC 12-15-35-19, at a public meeting of the board;  
21 and
- 22 (3) publish a provider bulletin that complies with the  
23 requirements of IC 12-15-13-6.

24 (c) Subject to subsection (d), the board may establish and the office  
25 may implement a restriction on a drug described in section 3(b) of this  
26 chapter if:

- 27 (1) the board determines that data provided by the office indicates  
28 that a situation described in IC 12-15-35-28(a)(8)(A) through  
29 IC 12-15-35-28(a)(8)(K) requires an intervention to:

- 30 (A) prevent fraud, abuse, or waste;
- 31 (B) prevent overutilization, inappropriate utilization, or  
32 inappropriate prescription practices that are contrary to:  
33 (i) clinical quality and patient safety; and  
34 (ii) accepted clinical practice for the diagnosis and treatment  
35 of mental illness; or

- 36 (C) implement a disease management program; and

- 37 (2) the board approves and the office implements an educational  
38 intervention program for providers to address the situation.

39 (d) A restriction established under subsection (c) for any drug  
40 described in section 3(b) of this chapter:

- 41 (1) must comply with the procedures described in  
42 IC 12-15-35-35;

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- (2) may include requiring a recipient to be assigned to one (1) practitioner and one (1) pharmacy provider for purposes of receiving mental health medications;
- (3) may not lessen the quality of care; and
- (4) must be in the best interest of Medicaid recipients.

(e) Implementation of a restriction established under subsection (c) must provide for the dispensing of a temporary supply of the drug for a prescription not to exceed seven (7) business days, if additional time is required to review the request for override of the restriction. This subsection does not apply if the federal Food and Drug Administration has issued a boxed warning under 21 CFR 201.57(e) that applies to the drug and is applicable to the patient.

(f) Before implementing a restriction established under subsection (c), the office shall:

- (1) seek the advice of the ~~mental health quality advisory committee until June 30, 2009;~~ **mental health Medicaid quality advisory committee established by IC 12-15-35-51;** and
- (2) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(g) Subsections (c) through (f):

- (1) apply only to drugs described in section 3(b) of this chapter; and
- (2) do not apply to a restriction on a drug described in section 3(b) of this chapter that was approved by the board and implemented by the office before April 1, 2003.

SECTION 6. IC 12-21-4.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 4.1. Workforce Development Task Force**

**Sec. 1. (a) As used in this section, "task force" means the workforce development task force for mental health and addiction.**

**(b) The workforce development task force for mental health and addiction is established.**

**(c) The task force consists of the following individuals to be appointed by the governor:**

- (1) One (1) representative from the division of mental health and addiction (IC 12-21-1-1) who shall serve as chairperson of the task force.**
- (2) One (1) representative from the state department of health (IC 16-19-3-1).**
- (3) One (1) representative from the department of education (IC 20-19-3-1).**

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(4) One (1) representative from the department of correction (IC 11-8-2-1).

(5) One (1) representative from the Indiana professional licensing agency (IC 25-1-5-3).

(6) One (1) representative from the Indiana department of veterans' affairs (IC 10-17-1-2).

(7) One (1) representative from the commission on Hispanic/Latino affairs (IC 4-23-28-2).

(8) Two (2) representatives of different advocacy groups for consumers of mental health services.

(9) One (1) representative from a statewide coalition that represents minority health issues.

(10) One (1) member of the Indiana commission on mental health (IC 12-21-6.5-2).

(11) One (1) representative of community mental health centers.

(12) One (1) representative from a college or university from a program for an undergraduate degree in social work.

(13) One (1) representative from a college or university with a school of nursing.

(14) One (1) psychologist licensed under IC 25-33 and engaged in private practice.

(15) One (1) representative from the Indiana University School of Medicine, department of psychiatry.

(16) One (1) representative from the Indiana University School of Medicine, department of:

(A) pediatrics; or

(B) internal medicine.

(17) One (1) representative from Riley Hospital for Children specializing in:

(A) infant; or

(B) toddler;

mental health.

(18) One (1) representative from Ivy Tech Community College, human service degree program.

(19) Two (2) representatives of consumers.

(d) The division of mental health and addiction shall provide staff for the task force.

(e) The task force shall study the following issues concerning individuals with mental illness:

(1) Increases in wages and other compensation for difficult to recruit mental health and addiction professional

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classifications.

(2) Loan repayment programs to attract individuals in classifications that provide services in mental health and addiction programs.

(3) Tuition reimbursement, including license and certification fees, for individuals in classifications that provide services in mental health and addiction programs.

(4) Internship opportunities for individuals in classifications that provide services in mental health and addiction programs.

(5) Mentoring opportunities for individuals in classifications that provide services in mental health and addiction programs.

(6) Revision of curriculum in master's, doctorate, and medical level programs to require courses in mental health and addiction.

(7) Marketing programs offering sign-on bonuses and referral incentives for difficult to recruit mental health and addiction professional classifications.

(8) Medical rate setting, including comparison of the state's rate with similar states.

(f) The task force shall present findings and make recommendations to the Indiana commission on mental health not later than August 2011.

(g) This section expires December 31, 2011.

SECTION 7. IC 31-9-2-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 52. "Health care provider", for purposes of IC 31-32-6-4, IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and IC 31-39-8-4, means any of the following:

- (1) A licensed physician, intern, or resident.
- (2) An osteopath.
- (3) A chiropractor.
- (4) A dentist.
- (5) A podiatrist.
- (6) A registered nurse or other licensed nurse.
- (7) A mental health professional.
- (8) A paramedic or an emergency medical technician.
- (9) A social worker, an x-ray technician, or a laboratory technician employed by a hospital.
- (10) A pharmacist.
- (11) A person working under the direction of any of the practitioners listed in subdivisions (1) through (10).

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SECTION 8. IC 31-32-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a child witness or child victim if the court finds that:

- (1) an allegation or a defense involves matters of a sexual nature; and
- (2) closing the proceeding is necessary to protect the welfare of a child witness or child victim.

(b) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a health care provider if the court finds that:

- (1) the testimony involves matters that would be protected under 45 CFR Parts 160 and 164 (Health Insurance Portability and Accountability Act of 1996 (HIPAA)); or
- (2) the testimony involves matters that would be a privileged communication between a health care provider and the health care provider's patient.

(c) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of:

- (1) a client and a:
  - (A) certified social worker;
  - (B) certified clinical social worker; or
  - (C) certified marriage and family therapist;
- (2) a school counselor and a student; or
- (3) a school psychologist and a student.

SECTION 9. [EFFECTIVE JULY 1, 2009] (a) The definitions under IC 11-10-4-6.6, as added by this act, apply to this SECTION.

(b) Notwithstanding IC 11-10-4-6.6(b), as added by this act, the initial members appointed by the governor to the advisory committee are appointed for the following terms:

- (1) Members appointed under IC 11-10-4-6.6(b)(3) and IC 11-10-4-6.6(b)(4) are appointed for a term of four (4) years.
- (2) A member appointed under IC 11-10-4-6.6(b)(5) is appointed for a term of three (3) years.
- (3) A member appointed under IC 11-10-4-6.6(b)(6) is appointed for a term of two (2) years.

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1           (4) A member appointed under IC 11-10-4-6.6(b)(7) is  
2           appointed for a term of one (1) year.  
3           This SECTION expires December 31, 2013.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1208, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17 and insert:

"SECTION 1. IC 11-10-4-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.6. (a) As used in this section, "advisory committee" refers to the mental health corrections quality advisory committee established by subsection (b).**

**(b) The mental health corrections quality advisory committee is established. The advisory committee consists of the following members:**

- (1) The commissioner of the department or the commissioner's designee, who shall serve as chairperson of the advisory committee.**
- (2) The director of the division of mental health and addiction or the director's designee.**
- (3) A representative of a statewide mental health advocacy organization.**
- (4) A representative of a statewide mental health provider organization.**
- (5) A representative from a medical services organization that participates in the department's medical services program.**
- (6) A member with expertise in psychiatric research representing a postsecondary educational institution.**
- (7) A pharmacist licensed under IC 25-26 with expertise in mental health disorders.**

**The governor shall make the appointments under subdivisions (3) through (7) for a term of four (4) years and fill any vacancy on the advisory committee.**

**(c) The affirmative votes of a majority of the voting members appointed to the advisory committee are required for the committee to take action on any measure.**

**(d) The advisory committee shall advise the department and make recommendations concerning the department's formulary for medications for mental health and addictive disorders and consider the following:**

- (1) Peer reviewed medical literature.**
- (2) Observational studies.**
- (3) Health economic studies.**



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- (4) Input from physicians and patients.
- (5) Any other information determined by the advisory committee to be appropriate.
- (e) The department shall report recommendations made by the advisory committee to the department's medical director.
- (f) The department shall report the following information to the Indiana commission on mental health (IC 12-21-6.5-2):
  - (1) The advisory committee's advice and recommendations made under this section.
  - (2) The number and types of restrictions implemented by the department and the outcome of each restriction.
  - (3) The transition of individuals with mental illness into the community and the rate of recidivism.
  - (4) Any decision by the department to change the mental health care delivery system in which medication is provided to inmates."

Page 2, line 9, delete "and IC 11-10-4-6.5".

Page 7, delete lines 34 through 42.

Delete page 8.

Page 9, delete lines 1 through 24.

Page 10, delete lines 30 through 38, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JULY 1, 2009] (a) The definitions under IC 11-10-4-6.6, as added by this act, apply to this SECTION.

(b) Notwithstanding IC 11-10-4-6.6(b), as added by this act, the initial members appointed by the governor to the advisory committee are appointed for the following terms:

- (1) Members appointed under IC 11-10-4-6.6(b)(3) and IC 11-10-4-6.6(b)(4) are appointed for a term of four (4) years.
- (2) A member appointed under IC 11-10-4-6.6(b)(5) is appointed for a term of three (3) years.
- (3) A member appointed under IC 11-10-4-6.6(b)(6) is appointed for a term of two (2) years.
- (4) A member appointed under IC 11-10-4-6.6(b)(7) is appointed for a term of one (1) year.

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**This SECTION expires December 31, 2013."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1208 as introduced.)

BROWN C, Chair

Committee Vote: yeas 8, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1208, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 17, nays 0.

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